

REMARKS

In response to the Final Office Action mailed March 10, 2005, Applicants respectfully request reconsideration.

Claims 22 and 23 stand rejected under 35 U.S.C. §101 because, according to the Office Action, both claims do not have any practical use. According to the Office Action, the claims only list a set of instructions that are saved on a computer readable medium with no function or use. Applicants respectfully disagree with this rejection.

Applicants believe that claims 22 and 23, already of record, qualify as statutory subject matter at least because they recite articles of manufacture. However, for purposes of clarification only, Applicants have amended claims 22 and 23 to recite that the data structure contains a number of computer-executable instructions, that, when executed on a computer, exclude information not required to identify a client connection. Thus, Applicants believe that the utility of the subject matter of claims 22 and 23 has been clearly recited in the claims. Accordingly, Applicants believe that the rejection under 35 U.S.C. §101 has been overcome and its withdrawal is respectfully requested.

Applicants further note that claims 22 and 23 were rejected only under 35 U.S.C. §101. Therefore, since this rejection has not been overcome and no further rejections of these claims remain, Applicants believe that claims 22 and 23 are clearly in allowable condition.

Claims 5, 6, 15, and 16 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Office Action notes that claims 5, 6, 15, and 16 are dependent on claim 1 and alleges that the claims do not teach a method or step in a method and therefore do not further limit the claims from which they depend. Applicants respectfully disagree with this rejection.

For clarification only, Applicants have amended claims 5, 6, 15, and 16, respectively to clarify that the steps in these dependent claims further define or amplify upon the steps recited in the claims from which they depend. Each of claims 5, 6, 15, and 16 has been amended to clarify that the method of the claim from which the claim depends further comprises additional steps.

In view of these clarifications, which do not narrow the scope of the claims, Applicants believe that the claims do further limit the claims from which they depend and therefore satisfy the requirements of 35 U.S.C. §112, second paragraph. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. §112, second paragraph, of claims 5, 6, 15, and 16 be withdrawn.

Claims 1-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Coile. According to the Office Action, Coile discloses a system and method for improving resource utilization in a TCP/IP connection management system that teaches closing a TCP/IP connection to create a timed-wait state, excluding information from the TCB not required to identify the client connection to form a timed-wait state TCB for a timed-wait period, and releasing of memory containing the information required to service the client connection. The Office Action goes on to state that Coile does not explicitly teach a timed-wait, however Coile teaches a method where the connection waits until the client has acknowledged all of the received packets. Therefore, the Office Action concludes that it would have been obvious for one of ordinary skill in the art at the time of the invention to modify Coile by using a timed-wait because doing so would result in the same function which is to wait until all the received packets were acknowledged by the client. Applicants respectfully disagree with this rejection.

As a preliminary matter, Applicants find the Office Action to be inconsistent. The Office Action states that Coile discloses closing a TCP/IP connection to create a timed-wait state. However, the Office Action goes on to state that Coile does not explicitly teach a timed-wait, but rather teaches a method where the connection waits until a client has acknowledged all the received packets. Applicants therefore respectfully request clarification as to how Coile can be interpreted to both teach and not teach a timed-wait.

Furthermore, the Office Action has not set forth a legally sufficient *prima facie* case of obviousness. According to the Office Action, it would have been obvious for one of ordinary skill in the art at the time of the invention to modify Coile by using a timed-wait because doing so will result in the same function which is to wait until all the received packets were acknowledged by the client. Applicants have reviewed Coile and can find no teaching or suggestion that Coile could or should be modified as suggested in the Office Action. Furthermore, the Office Action cites no other motivation for such a modification. The only such motivation of record may only be found in Applicants' own specification. Accordingly, the motivation set forth in the Office Action for modifying Coile is legally insufficient and therefore improper.

As a result, since the rejection of claim 1-21 under 35 U.S.C. §103(a) as set forth in the Office Action is inconsistent and legally insufficient, Applicants respectfully request that the rejection be withdrawn. Accordingly, claims 1-21 are believed to be in allowable condition.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

***Venkataraman RAMANATHAN et al.,
Applicants***

By: 

James H. Morris, Reg. No. 34,681
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
Telephone: (617) 646-8000

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